

of such funds shall be in accordance with the appropriate provisions of part 277. The accounting procedures maintained by the State agency shall be such as to accurately reflect the receipt, expenditure and current balance of funds provided by FCS and to facilitate the prompt preparation of reports required by FCS. The accounting procedures shall also provide for segregation of costs specifically identifiable to the Food Distribution Program from any other costs incurred by the State agency. Any budget revisions by a State agency which require the transfer of funds from an approved cost category to another shall be in accordance with the budget revision procedures set forth in OMB Circular No. A-102, Attachment K, and shall be approved by FCS prior to any transfer of funds.

(g) *Return, reduction, and reallocation of funds.* (1) FCS may require State agencies to return prior to the end of the fiscal year any or all unobligated funds received under this section, and may reduce the amount it has apportioned or agreed to pay to any State agency if FCS determines that:

(i) The State agency is not administering the Food Distribution Program in accordance with its plan of operation approved by FCS and the provisions of this part, or

(ii) The amount of funds which the State agency requested from FCS is in excess of actual need, based on reports of expenditures and current projections of Program needs.

(iii) Circumstances or conditions justify the return reallocation or transfer of funds to accomplish the purpose of this part.

(2) The State agency shall return to FCS within 90 days following the close of each Federal fiscal year any funds received under this section which are unobligated at that time.

(h) *Records, reports, audits.* (1) The State agency shall:

(i) Keep such accounts and records as may be necessary to enable FCS to determine whether there has been compliance with this section, and

(ii) Adhere to the retention and custodial requirements for records set forth in §277.4 of this chapter.

(2) The State agency receiving funds either through a Treasury RDO Letter

of Credit system or Treasury check shall submit quarterly reports to FCS on Form SF-269, "Financial Status Report," by the 30th day after close of the reporting quarter and shall submit such other reports as may be required by FCS.

(3) The appropriate provisions of part 277 are adaptable to this section for additional guidance.

(Approved by the Office of Management and Budget under control number 0584-0071)

(44 U.S.C. 3506)

[44 FR 35928, June 19, 1979, as amended at 47 FR 746, Jan. 7, 1982. Redesignated and amended by Amdt. 1, 47 FR 14137, Apr. 2, 1982, as amended at 62 FR 53731, Oct. 16, 1997]

## PART 254—ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM FOR INDIAN HOUSEHOLDS IN OKLAHOMA

### Sec.

254.1 General purpose.

254.2 Definitions.

254.3 Administration by an ITO.

254.4 Application by an ITO.

254.5 Household eligibility.

AUTHORITY: Pub. L. 97-98, sec. 1338; Pub. L. 95-113.

SOURCE: 49 FR 32756, Aug. 16, 1984, unless otherwise noted.

### §254.1 General purpose.

This part sets the requirement under which commodities (available under part 250 of this chapter) may be distributed to households residing in FCS service areas in Oklahoma. This part also sets the conditions for administration of the Food Distribution Program by eligible Oklahoma tribes determined capable by the Department.

### §254.2 Definitions.

(a) *Exercises governmental jurisdiction* means the exercise of authorities granted to ITOs under the Oklahoma Indian Welfare Act of 1936 or by BIA regulations (25 CFR part 81 et. seq.).

(b) *FCS service area* means the areas over which FCS has approved the food distribution program in Oklahoma, excluding urban places unless approved by FCS under 254.5(b).

(c) *Food Distribution Program* means a food distribution program for households on Indian reservations administered pursuant to section 4(b) of the Food Stamp Act and 1304(a) of Pub. L. 97-98.

(d) *Indian tribal household* means a household in which at least one household member is recognized as a tribal member by any Indian tribe, as defined in §253.2(d) of this title.

(e) *Indian tribal organization (ITO)* means (1) any Indian tribe, band, or group organized under the Oklahoma Indian Welfare Act of 1936, and which has a tribal organization approved by the Bureau of Indian Affairs; (2) a tribal organization established and approved under Federal regulations issued by the Bureau of Indian Affairs; or (3) an intertribal council authorized by eligible tribes to act in behalf of the tribes to operate the program.

(f) *State agency* means the ITO of an Indian tribe, determined by the Department to be capable of effectively administering a Food Distribution Program, or an agency of State government, which enters into an agreement with FCS for the distribution of commodities on an Indian reservation.

(g) *Urban place* means a town or city with a population of 10,000 or more.

[49 FR 32756, Aug. 16, 1984, as amended at 59 FR 1449, Jan. 11, 1994]

#### §254.3 Administration by an ITO.

(a) *Applicability of part 253.* All of the provisions of part 253 are herein incorporated and apply to part 254, except as specifically modified by part 254.

(b) Section 253.4 Administration, does not apply and is replaced by §254.3.

(c) *Federal administration.* Within the Department of Agriculture, the Food and Consumer Service (FCS), shall be responsible for the Food Distribution Program. FCS shall have the power to determine the amount of any claim and to settle and adjust any claim against an ITO.

(d) *ITO administration.* The ITO, acting as State agency, shall be responsible for the Food Distribution Program within the approved FCS service areas if FCS determines the ITO capable of effective and efficient administration.

(e) *Qualification as an ITO.* The ITO of a tribe in Oklahoma must document to the satisfaction of FCS that the ITO meets the definition of an ITO in §254.2, is organized under the provisions of the Oklahoma Indian Welfare Act of 1936 or has a tribal organization established and approved under BIA regulations.

(The information collection requirements contained in paragraph (e) were approved by the Office of Management and Budget under control number 0584-0316)

#### §254.4 Application by an ITO.

(a) *Application to FCS Regional Office.* An ITO which desires to participate in the Food Distribution Program shall file an application with the FCS Regional Office. The application shall also provide other information requested by FCS, including but not limited to, the tribe's qualification as a reservation as described in §254.2, paragraph (f). Properly addressed applications shall be acknowledged by the FCS Regional Office in writing within five working days of receipt. FCS shall promptly advise ITOs of the need for additional information if an incomplete application is received.

(b) *Tribal capability.* (1) In determining whether the ITO is potentially capable of effectively and efficiently administering a Food Distribution Program in an FCS Service area, allowing for fulfillment of that potential through training and technical assistance, FCS shall consult with other sources such as the BIA, and shall consider the ITO experience, if any, in operating other government programs, as well as its management and fiscal capabilities. Other factors for evaluation include, but are not limited to, the ITO's ability to:

- (i) Order and properly store commodities,
- (ii) Certify eligible households,
- (iii) Arrange for physical issuance of commodities,
- (iv) Keep appropriate records and submit required reports,
- (v) Budget and account for administrative funds,
- (vi) Determine the food preferences of households, and